

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DYWON LEVER,

Petitioner,

v.

CASE NO. 09-13657
HONORABLE NANCY G. EDMUNDS

UNITED STATES OF AMERICA,

Respondent.

ORDER DISMISSING THE HABEAS PETITION AND CLOSING THIS CASE

Petitioner Dywon Lever has filed a *pro se* habeas corpus petition under 28 U.S.C. § 2241. Petitioner is confined at the St. Clair County Correctional and Detention Center in Port Huron, Michigan. His habeas petition challenges a federal indictment that has been filed against Petitioner. *See United States v. Lever*, 2:08-cv-20500-1 (E.D. Mich. Oct. 15, 2008). Petitioner alleges that the Court and other agents of the United States have unlawfully taken him into custody and deprived him of his freedom without due process of law. Petitioner contends that he was forced to appear before the Court and to sign an appearance bond. He maintains that the Court lacks subject matter jurisdiction of him, as no criminal complaint or charges have been lawfully filed against him. He seeks an order setting aside the indictment, dismissing the allegations against him, and releasing him from custody.

Petitioner is not entitled to habeas corpus relief because all his claims relate to the pending criminal charges and can be raised in his criminal case. *Garey v. Fed. Det. Ctr., Miami*, 180 Fed. Appx. 118, 119-21 (11th Cir. 2006). The appropriate remedy for a federal pretrial detainee who is asserting violations of his constitutional rights is to file pretrial motions in the

criminal case, not a habeas corpus petition. *Id.* An adequate and unexhausted remedy is available to Petitioner in the criminal case. Accordingly, the petition for writ of habeas corpus [Dkt. #1] is **DISMISSED** without prejudice.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: October 6, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 6, 2009, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager